

LiuGong Position – EU & UK Grey Imports

This document addresses so-called "grey imports": machines produced by the manufacturer for markets outside the EU and UK, but which have subsequently been brought into the EU or UK through unofficial channels rather than the manufacturer's authorised distribution network. Because these machines were built to the specifications and regulatory standards of those markets, they will generally not comply with the product safety and conformity requirements applicable in the EU and UK. This is a practical LiuGong guidance document on how to identify such machines and what steps to take. The document does not constitute, and is not intended to constitute, legal advice.

Introduction:

EU and UK law require that machinery may only be made available on the market if it meets the applicable health and safety requirements at that time, regardless of payment made, availability for use, loan, and/or sale.

A "grey import" is a machine that was not designed or intended by the manufacturer for the EU or UK market and is subsequently brought into those markets, typically through auctions, online platforms or direct B2B transactions, without the involvement of the manufacturer or its official distribution channel. Consequently, such machinery generally does not comply with the applicable requirements.

It is the grey importer's responsibility to ensure that the grey import meets all applicable legal and regulatory requirements before the machinery is made available on the market (i.e. not the responsibility of the auction house). Machines built for other markets typically do not meet EU and UK health and safety standards and are, therefore, not in conformity with applicable laws. Typically, these deficiencies cannot be economically remedied. LiuGong, as the original manufacturer of machinery that was neither designed nor intended for the EU or UK market and that was not placed on that market by LiuGong or its authorised network, is under no legal or contractual obligation to provide grey importers with any support or after-sales service.

Buyer beware (Latin: *caveat emptor*)

UK and EU buyers of new and used machinery must ensure that the machinery complies with the laws of the country where it will be operated, and that it is safe as defined by those laws.

There are also numerous UK and EU laws that importers, exporters, and distributors (i.e. independent machinery dealers) must consider. A non-exhaustive list of EU laws includes:

- Directive 2000/14/EC on Outdoor Noise

- Directive 2006/42/EC on Machinery, and from 20 January 2027, Regulation (EU) 2023/1230 on Machinery
- Directive 2011/65/EU on the Restriction of the use of certain Hazardous Substances in Electrical and Electronic Equipment
- Directive 2012/19/EU on Waste Electrical and Electronic Equipment
- Directive 2014/30/EU on Electromagnetic Compatibility
- Directive 2014/35/EU on Low Voltage
- Directive 2014/53/EU on Radio Equipment
- Regulation (EU) 2016/1628 on Engine Exhaust Gas and Particulate Emissions
- Regulation (EU) 2019/1020 on Market Surveillance and Compliance of Products
- Regulation (EU) 2023/988 on General Product Safety
- Regulation (EU) 2023/1542 on Battery and Battery Waste
- Regulation (EU) 2024/573 on Fluorinated Greenhouse Gases
- Regulation (EU) 2024/2847 on Cybersecurity for Products with Digital Elements

In addition, there are workplace restrictions on the use of non-compliant machinery such as UK PUWER (Provision and Use of Workplace Equipment Regulations 1998), LOLER (Lifting Operations and Lifting Equipment Regulations 1998) and EU Directives 89/391/EEC (Measures to encourage improvements in the safety and health of workers at work) and Directive 2009/104/EC (Minimum safety and health requirements for the use of work equipment by workers at work).

Liability for non-compliant grey imports, including administrative fines, market-withdrawal, recall orders and criminal prosecutions under national laws, rests with the economic operator(s) that placed or made the machine available on the EU or UK market, and with the employer that puts it into service, and not with LiuGong.

Furthermore, any goodwill assistance that an authorised UK or EU LiuGong dealer may, on a case-by-case discretionary basis provide, in respect of a grey import, shall not be construed as a representation or warranty by LiuGong that the machine is safe, compliant with EU or UK laws, or suitable for use in those markets, because the local dealer will have had no experience of, and no official training, on machines not intended for the EU or UK market.

What to check for when buying LiuGong machinery?

Grey imports may have multiple differences from UK and EU compliant machines. A useful industry resource has been published by the European association for construction and earth-moving machinery manufacturers (CECE). At the time of writing, the CECE compliance brochures explain CE marking, the applicable safety requirements and the respective obligations of manufacturers,

importers and distributors, and can help a prospective buyer identify typical indicators of a grey import, such as a missing EU Declaration of Conformity, a missing CE mark, non-EEA technical specifications, or original instructions not provided in the official language(s) of the country of use. See: <https://www.cece.eu/home>.

Note: When at an auction, at an unauthorised dealer or with a private seller it is advisable to check that the LiuGong Product Identification Number plate (PIN plate and also known as a Serial Number Plate) bears a CE mark (or sometimes a UKCA and CE mark) that is visible, legible and indelible. On genuine LiuGong machines intended for the EU or UK market, the CE mark is etched into the plate. A self-adhesive CE decal is therefore a strong indicator that the machine may not be a genuine LiuGong machine. The buyer should also obtain and verify the machine's EU (or UK) Declaration of Conformity document. The above applies equally to machine work tools, attachments, and safety components. Prospective buyers may contact LiuGong for an indicative serial number check. However, please note that LiuGong cannot guarantee that the number has come from a genuine LiuGong PIN plate or that the Declaration of Conformity is original.

What to do if you have bought a non-compliant product?

Before putting the machine into use, verify the following additional compliance indicators: the language of the manual, machine safety and engine emissions labels, hose-burst check valves, hydraulic hoses, ROPS/FOPS and other components and machine systems.

LiuGong recommends returning to the seller to negotiate a suitable resolution.

If no suitable resolution can be reached and pursuing legal action against the seller is not a viable option, consider re-exporting the machine to a market outside the EU/UK, subject to compliance with all applicable export control, customs, and product safety requirements of the destination country. Some used grey imports may be unsuitable for re-export.

Note: If the product has to be scrapped, take additional precautions as harmful substances may be present. One potential example is greater than 1% lead (Pb) in the machine's paint on non-genuine parts; such concentrations are not permitted in the EU and UK.

Recommendation:

Buyers of machinery benefit from buying from an EU/UK authorised dealership or online from an established manufacturer's EU direct distribution sales system.

When buying from an auction or a private seller or an independent dealer, the buyer must ensure that the machine meets their business needs, i.e. it is safe and compliant; it is for the buyer to make those detailed checks either themselves or via a suitable independent machinery consultant.

If a product (i.e., a machine) is not genuinely CE-marked or otherwise non-compliant, the employer or user must stop using it immediately.